

Premier Waste Recycling Limited

Terms and Conditions for the Supply of Commercial Waste Containers and Associated Services

1. Definitions

1.1 In these conditions:

“**Address**” means the Customer’s Address of Collection Site referred to at Section 1(b) of the Customer Service Agreement.

“**Charges**” means the charges for the Containers, and/or the Services as set out in Section 3 of the Customer Service Agreement (together with any subsequent charge variations);

“**Company**” means Premier Waste Recycling Limited (Company Registration Number 7566881)

“**Collection Charge**” has the same meaning as Delivery Charge.

“**Conditions**” means the terms and conditions set out in this document and any special terms and conditions agreed in writing between the Company and the Customer and set out in the Customer Service Agreement.

“**Containers**” means any (including one or more) waste containers, receptacles and/or other equipment provided by the Company to the Customer as identified in the Customer Service Agreement which will be hired to the Customer for the Customer’s use in accordance with the Conditions together with any containers subsequently delivered to the Customer.

“**Contract**” means the contract for the provision of the Containers and/or the Services by virtue of these Conditions and the Customer Service Agreement;

“**Contract Date**” means the date as specified within Section 5 of the Customer Service Agreement.

“**Contract Period**” means from the Contract Date to the date when the Contract is terminated in accordance with these Conditions;

“**Customer**” means the person or persons (including any individual, body corporate, association, partnership, firm, trust, organisation, or any other entity) named in Section 1 of the Customer Service Agreement.

“**Customer Service Agreement**” means the document entitled the Customer Service Agreement and Order Form signed by the Customer.

“**Delivery Charge**” has the meaning as referred to within section 3 of the Customer Service Agreement.

“**EPA**” means the Environmental Protection Act 1990.

“**Heavy Bin Charge**” means the additional costs incurred by the Company through the collection and disposal of any Containers that exceed the Max Bin Weight stated within the Customer Services Agreement including any handling, disposal and transportation costs.

“**In advance**” has the meaning as referred to within the Customer Service Agreement being when payment is due, before a service period (eg annually/six monthly/quarterly as applicable) is due to commence.

“**Initial Payment**” means any initial payment payable by the Customer to the Company referred to within the Customer Service Agreement.

“**Service Day**” has the meaning as set out in Section 3 of the Customer Service Agreement or such other day as notified (whether by telephone or otherwise) to the Customer by the Company.

“**Services**” means the collection of Waste and/or disposal of Waste services to be provided by the Company (or its agents, servants, sub-contractors, employees or otherwise) to the Customer as agreed under the terms of the Contract;

“**Termination Fee**” is the fee set out in clause 10.4.4 of these Conditions.

“**Waste**” means the waste type as more particularly set out in Section 3 of the Customer Service Agreement which the Company has agreed to collect and dispose of in performing the Services (and/or any part of them).

- 1.2 Any reference in these Conditions to any provision of a statute, regulation, statutory provision or other enactment shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time, provided that as between the parties, no such amendment or modification shall apply for the purposes of these Conditions to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of any party.
- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.4 Unless the context otherwise requires, words in the singular include the plural and vice versa. Words denoting any gender includes all genders.
- 1.5 any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.
- 1.6 These terms and conditions shall apply to the Agreement to the exclusion of any other terms and conditions

2. Supply of Containers and Services

- 2.1 The Company shall provide the Containers and/or Services to the Customer in consideration of the Charges in accordance with the terms of the Contract.
- 2.2 The Company may at any time without notifying the Customer make any changes to the Containers, the Services and/or the manner in which they are provided to the Customer where it is required to do so in order to comply with any relevant or applicable statutory or regulatory requirements or which do not materially affect the nature or quality of the Service.
- 2.3 The Company may correct any typographical and/or other errors or omissions in any brochure, quotation, advertisement, catalogue or other document relating to the provision of the Containers or Services without any liability to the Customer and such documents shall not form part of the Contract.

3. Customer’s Obligations

- 3.1 Unless otherwise agreed in writing by the Company, the Customer warrants that it has complied with and will continue to comply with every obligation imposed by law (including without limitation any obligation imposed by any statute, statutory instrument or regulation), upon it in relation to the Waste including:

- 3.1.1 the statutory duty of care imposed by the EPA and the Environmental Protection (Duty of Care) Regulations 1991;
 - 3.1.2 the Hazardous Waste Regulations 2005;
 - 3.1.3 the Carriage of Dangerous Goods by Road Regulations 1996;
 - 3.1.4 the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 2004;
 - 3.1.5 the Waste (England and Wales) Regulations 2011;
 - 3.1.6 the Technically, Environmentally and Economically Practicable Regulations (as and when they come into force) or such other regulations protecting and covering the principles therein.
 - 3.1.7 any other relevant legislation; and
 - 3.1.8 to comply with the duties imposed by virtue of the Health and Safety at Work etc Act 1974 and the Control of Substances Hazardous to Health Regulations 2002.
- 3.2 The Company shall have the exclusive right during the Contract Period to supply Containers and/or Services for all of the Waste which is in the possession and/or control of the Customer at the Address, the safe disposal of which is the responsibility of the Customer. This sub-clause 3.2 shall only apply if the Company can deal with it under the terms of a waste management licence, environmental permit or other consent under the EPA owned by the Company or its sub-contractor.
- 3.3 The Customer (including any employee, agent, contractor, and/or any third party) is prohibited in all and any circumstances whatsoever, to empty and/or move any Containers unless specifically authorised in writing by the Company to do so.
- 3.4 The Customer shall ensure that on each and every Service Day:
- 3.4.1 the Company has unobstructed vehicular access to the Address to enable collection of the Waste and deliver, empty and/or remove Containers.
 - 3.4.2 the Containers are safely and readily accessible to the Company and its vehicles to carry out the Services. The Company accepts no liability whatsoever for damage caused to any Customer and/or third party property, surfaces, driveways, drainage and/or other services over or under which access is required when delivering the Containers and/or as part of the provision of the Services.
- 3.5 The Customer shall advise the Company immediately of his intention to permanently leave the Address. Clauses 10.2 and 10.5 are specifically drawn to the Customer's attention in this regard.
- 4. Delivery of Containers**
- 4.1 The Company shall deliver to the Address the Containers in accordance with the Contract.
- 4.2 Further containers may be requested from the Company. Any further containers and services to be provided shall be delivered to the Customer in accordance with the Contract or a new contract (if so requested by the Company). For the

avoidance of doubt, the Company is under no obligation whatsoever, whether contractually or otherwise, to provide further Containers and/or containers and/or bin lifts requested by the Customer.

- 4.3 If for any reason the Customer fails to accept delivery of any Containers when ready for delivery, upon delivery, and/or the Company is unable to deliver because the Customer has not provided appropriate instructions, documents, licences, authorisations and/or access:
- 4.3.1 risk in the Containers shall pass to the Customer;
 - 4.3.2 the Containers shall be deemed to have been delivered and the Charges payable accordingly; and
 - 4.3.3 the Company may store the Containers until physical delivery, during which time the Customer shall be liable for all related costs and expenses (including further Delivery Charge(s) for the re-delivery of the Containers and storage charges of £5/day).

5. Non-delivery of Service

- 5.1 Any liability of the Company for non-delivery of Containers and/or for non-performance of the Services shall be limited to the Company:
- 5.1.1 as soon as reasonably practicable delivering or replacing the Containers; and/or
 - 5.1.2 as soon as reasonably practicable performing the Services;

6. Risk/Title

- 6.1 Without prejudice to clause 4.3.1, the Containers are at the risk of the Customer from the time of delivery.
- 6.2 The Containers shall at all times remain the property of and under the legal ownership of the Company.
- 6.3 The Customer shall maintain the Containers in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company.
- 6.4 The Company has the right at its absolute discretion to take possession of any and/or all Containers in the following circumstances:
- 6.4.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provisions for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and / or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court of the appointment of an administrator of the Customer or notice of intention to appoint an administrator if given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to

any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; and/or

- 6.4.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his property or obtained against him, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 or 267 of the Insolvency Act 1986 (as applicable) or the Customer ceases to trade; and/or
 - 6.4.3 the Customer encumbers and/or in any way charges, sells, leases, hires or otherwise disposes of any of the Containers; and/or
 - 6.4.4 the Customer stores anything other than Waste in the Containers; and/or
 - 6.4.5 any Containers are damaged, vandalised and/or stored other than in accordance with the terms of the Contract; and/or
 - 6.4.6 breach of clause 8.3.1, 8.3.2 and/or 8.3.3; and/or
 - 6.4.7 the Contract is terminated for any reason.
- 6.5 Without prejudice to all and any rights of the Company under this Contract, the Company will be entitled to charge losses including Collection Charge payable by the Customer upon written demand in the event the Company exercises its rights under clause 6.4.
- 6.6 The Company shall be entitled to recover immediate payment upon written demand for part or full value (as the Company deems appropriate) of the Containers in respect of all or any Containers (notwithstanding that ownership of any of the Containers has not passed from the Company) damaged whether beyond repair or otherwise (howsoever caused including wear and tear and fire), stolen and/or disposed.
- 6.7 The Customer shall take all steps to protect, secure and keep secure the Containers from damage, theft, inclement weather and/or disposal. For the avoidance of doubt, the Company shall not, at any time, be liable to the Customer and/or any third party in respect of the Customer's breach of this clause.
- 6.8 The Customer grants to the Company, its agents, servants and/or employees an irrevocable licence at any time to enter any premises (including the Address) where the Containers are or may be stored in order to inspect them, and/or where the Customer's right to possession has terminated, to recover them.

7. Waste

- 7.1 In the event that the Waste when collected (in the opinion of the Company), contains material different from the type stipulated in the Customer Service Agreement, the Company may in its absolute discretion:
- 7.1.1 refuse to accept or collect all or any part of the affected Waste and or waste material;
 - 7.1.2 make such increase in the Charges as it sees fit;
 - 7.1.3 terminate the Contract without any liability payable whatsoever to the Customer by the Company;

- 7.1.4 require the Customer at its own expense to remove the waste material not forming part of the Waste from the Containers and/or the Company's premises;
 - 7.1.5 require the Customer to pay the Company's charges for returning the affected Waste and/or waste material to the Customer including Delivery Charges and Collection Charges; and/or
 - 7.1.6 dispose of such waste material in such manner as the Company thinks fit according to the duty of care under the EPA, in which event the Customer shall indemnify and keep indemnified the Company against all and any loss and/or expense incurred by the Company in doing so.
- 7.2 The Company may immediately terminate the Contract without incurring any liability to the Customer whatsoever if, the disposal facilities used by the Company are significantly changed and such changes are outside the control of the Company.

8. Responsibility for the Containers

- 8.1 The Customer shall be responsible for providing and maintaining insurance to the reasonable satisfaction of the Company in respect of all Containers supplied to it by the Company. The Customer shall supply on request to the Company a copy of the insurance policy and a receipt for the current insurance premium.
- 8.2 No Containers shall be stored on a public highway or public land.
- 8.3 The Customer shall only use the Containers in accordance with the Contract and in particular:
- 8.3.1 the Customer shall not allow any material to be burned or fire started in any Containers;
 - 8.3.2 the Customer shall comply with all and any express requirements of the Company as to the placement of the Waste into the Containers.
 - 8.3.3 the Customer shall only place Waste into the Containers and no other waste materials.

9. Containers and Waste Collection

- 9.1 The Containers shall be suitable for containing and transporting Waste insofar as it is in the Company's control to supply and/or provide the same. The Customer shall indemnify and keep indemnified the Company in respect of all and/or any losses including costs (howsoever incurred), expenses, damages, penalties, fines and/or other liabilities brought against or suffered by the Company which arises from the Customer and/or any third party placing waste materials other than Waste in the Containers.
- 9.2 The Customer will indemnify and keep indemnified the Company in respect of all and/or any losses and/or costs incurred by it through the collection and disposal of any Waste located outside of the Containers including any handling, disposal and/or transportation costs and the Customer agrees to pay such additional charges on demand.
- 9.3 The Customer shall not allow any third party (contractors, employees, agents or otherwise) to place waste containers receiving Waste at the Address during the Contract Period without the express written permission of the Company.

- 9.4 If additional waste collection services are required by the Customer at the Address or otherwise, the Customer shall give the Company a right of first refusal to provide these services prior to engaging a third party.

10. Duration and Termination

- 10.1 The Contract shall commence on the first date of the Contract Period and shall continue until terminated by either party in accordance with these Conditions.
- 10.2 Subject to any early termination provisions contained in these Conditions:
10.2.1, the Company may terminate this Contract in writing by giving 14 days' notice.
10.2.2 the Customer may terminate this Contract in writing giving no less than 3 months and no more than 6 months' notice to expire 3 months after the first anniversary of the Contract Date or on any anniversary of the Contract Date thereafter.
- 10.3 In the event that the Contract is for fixed term, in excess of 12 months, then either party may terminate this Contract in writing giving no less than 3 months and no more than 6 months' notice to expire at the end of the current term.
- 10.4 In the event that the Contract is terminated either:
10.4.1 by the Company following the Customer's breach of Contract; and/or
10.4.2 by the Customer other than in accordance with clause 10.2;

the Customer shall, on written demand by the Company, pay to the Company (without prejudice to any other rights or remedies that the Company shall have), the following:

- 10.4.3 the balance of the Charges and any other sums due and payable under the Contract by the Customer to the date of such termination; and
10.4.4 65% of the amount of the Charges that would have been payable for the period from the date of such termination until the earliest date on which the Customer should and could have terminated the Contract in accordance with clause 10.2 or 10.3. This charge will be calculated on the value of the average Services supplied over the previous 13-week period prior to the circumstances arising set out in clause 10.4.1 or 10.4.2.
- 10.5 The Termination Fee is calculated and payable from the date the circumstances under clause 10.4.1 and/or 10.4.2 arose to the earliest date of termination had it been correctly exercised in accordance with Clause 10.2 or 10.3.
- 10.6 The Company shall, without prejudice to any other rights or remedies that the Company may have, be entitled to immediately terminate the Contract if:
10.6.1 the Customer commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 3 days; and/or
10.6.2 the Customer ceases or threatens to cease to carry on business; and/or
10.6.3 any circumstances arise as provided for at clauses 6.4.1 to 6.4.5 of these Conditions.

11. Charges

- 11.1 Subject to payment of the Initial Payment which the Customer can pay by cash or bank card payment, all Charges and any other sums payable to the Company under the Contract are to be made by way of bank transfer or bank card payment only.
- 11.2 If upon undertaking any of the Services, the Company establishes that the weight of the Containers exceeds the 'Max Bin Weight' shown within the Customer Service Agreement, the Customer shall pay to the Company the Heavy Bin Charge.
- 11.3 In the event that the Containers cannot be lifted by the Company vehicle for whatever reason outside the Company's control then all and any additional costs associated with the Services will be charged to the Customer, including, but a further Delivery Charge and any Collection Charge.
- 11.4 The Company shall, and is entitled to, charge for any Services which it is unable to carry out due to:
- 11.4.1 a public holiday in the United Kingdom; and/or
 - 11.4.2 it not being able to gain access to the Address and/or empty the Containers; and/or
 - 11.4.3 the Customer's business being closed; and/or
 - 11.4.4 the Customer and/or the Company being in a shutdown period.
- 11.5 The Company has the right to increase the Charges and shall communicate any increase to the Customer in writing, not less than 14 days prior to the date on which the increase in the Charges become effective.
- 11.6 The Customer shall pay all invoices issued to it by the Company by their respective due date as expressly stated within each invoice raised.
- 11.7 The "Duty of Care" fee (as provided for under the Customer Service Agreement) payable by the Company under the EPA shall be applied annually and reimbursed by the Customer.
- 11.8 Time for payment of the Charges and any other sum payable under the Contract shall be of the essence.
- 11.9 If the Customer fails to make any payment on the due date the Company shall, without prejudice to any other rights set out within this Contract and/or implied by law, be entitled to:
- 11.9.1 charge the Customer interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998 from the date upon which all and any sum outstanding is due and payable and until all such sums are paid in full by way of cleared funds; and/or
 - 11.9.2 suspend the Services; and/or
 - 11.9.3 terminate the Contract and
 - 11.9.3.1 enter the Address or such other premises upon which the Containers are located and remove them accordingly; and

11.9.3.2 demand in writing for immediate payment to be made by the Customer for the Company's losses including any outstanding Charges, Termination Fee, Delivery Charge, the Lift Rate per Bin (as provided for under the Customer Service Agreement) and/or Collection Charge in accordance with this Contract; and/or

11.9.4 receive and retain all Charges for the period to which the Services were not undertaken due to non-payment and/or breach of the Contract by the Customer.

11.10 The Customer shall indemnify, and keep indemnified, the Company in respect of all and/or any loss suffered by the Company (whether from a third party claim or otherwise) under this Contract including damages, charges, penalties, fines, costs, value added tax, expenses, and/or any other loss and/or liabilities due to, but not limited to, the Customer's (and/or its employees, agents, officers, contractors, third parties under the express or implied control or direction of the Customer or persons at the Address) action, omission and/or breach under the Contract.

11.11 For the avoidance of doubt, no payment shall be deemed paid until the Company has received full payment by way of cleared funds without any set-off, deduction or otherwise.

12. Time not of essence

Any times, days and dates quoted for the Company to deliver up the Containers and/or undertake the Services are approximate only and time shall not be of the essence of the Contract.

13. General

13.1 The Company warrants that the Containers will be of satisfactory quality upon first delivery but that all Containers are provided to the Customer on an "as seen" basis and the Customer acknowledges and agrees that it will make all reasonable enquiries that the Containers are suitable for the purposes for which the Customer intends to use them and report any defects within 3 business days of delivery of the Containers

13.2 The Company warrants the Services will be carried out with reasonable skill and care.

13.3 Any liability of the Company whatsoever under or in connection with the Contract shall not exceed the amount of the Charges paid by the Customer together with 10% thereon in the previous 13 weeks prior to the liability arising under the Contract.

13.4 The Company shall not be liable to the Customer nor deemed to be in breach of the Contract by reason of any part performance, delay and/or failure in performing, any of the Company's obligations in relation to the provision of the Containers and/or the Services if the part performance, delay and/or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall also be regarded as causes beyond the Company's reasonable control:

- 13.4.1 Act of God, explosion, flood, adverse or severe weather conditions, fire or accident;
 - 13.4.2 war or threat of war, sabotage, insurrection, malicious damage, civil disturbance, riot or requisition;
 - 13.4.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 13.4.4 import or export regulations or embargoes;
 - 13.4.5 strikes, lock outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);
 - 13.4.6 difficulties in obtaining raw materials, labour, fuel, transport, staff, parts or machinery;
 - 13.4.7 power failure, breakdown in plant or machinery, or operational difficulties relating to traffic, machinery, sub-contractors and/or suppliers.
- 13.5 If any of the circumstances referred to at clause 13.4.1 to 13.4.7 prevent the Company from providing any of the Services for more than four (4) weeks, the Company shall, without limiting any rights and/or remedies it may have against the Customer, have the right to terminate this Contract by giving written notice to the Customer.
- 13.6 The Customer acknowledges and agrees that in entering into this Contract, the Customer does not rely on (and shall have no remedy in respect of) any statement, representation, warranty, collateral agreement and/or other assurance (whether made negligently or innocently) of any person (whether party to this Contract or not) other than as expressly set out in this Contract. Nothing in this clause shall operate to limit or exclude any liability for fraud.
- 13.7 The Company shall be entitled to perform any of the obligations undertaken by it and exercise any of the rights, granted to it under this Contract through sub-contractors and/or any other company which at the relevant time is its holding company or subsidiary (as defined by section 1159 Companies Act 2006, as amended) or the subsidiary of any such holding company, and any act and/or omission of any such company shall for the purposes of this Contract be deemed to be the act and/or omission of the Company.
- 13.8 Any communications, notices or service of documentation from the Customer shall be in writing and sent by pre-paid post addressed to either the NORTH EAST or YORKSHIRE address as expressly indicated on the Customer Service Agreement. Service shall be deemed undertaken upon receipt by the Company.
- 13.9 Unless expressly stated to the contrary within these Conditions, any written notices, communications, demands and/or service requirements to be undertaken by the Company upon the Customer shall be in electronic form, (unless, in the event no email details have been provided by the Customer to the Company, whereupon service will be effective by sending such communication to the Address). Service will be deemed upon the electronic form being successfully sent or the second day after posting as appropriate.

- 13.10 The failure of the Company to enforce or to exercise at any time or for any period of time, any term of or any right pursuant to this Agreement, does not constitute and shall not be construed as, a waiver of such term or right and shall in no way affect the Company's right later to enforce it or exercise it.
- 13.11 If any provision in this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the remaining provisions within the Contract shall not be affected.
- 13.12 Unless the law expressly provides to the contrary, the Company will not be liable for all and/or any claim under the Consumer Rights Act 2015 and/or the Consumer Contract Regulations 2013. The Customer agrees it is trading in a business capacity and not as a consumer.
- 13.13 This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between them relating to the Containers and/or the Services.
- 13.14 In the event of a conflict arising between the terms of the Customer Service Agreement and the Conditions, the Conditions will prevail.
- 13.15 This Agreement and any non-contractual obligations arising out of or in connection with it, shall be governed by, and construed in accordance with, English law and the parties agree that the English Courts are to have exclusive jurisdiction.
- 13.16 The Company may assign the Contract and the rights and obligations thereunder. The Customer cannot assign or otherwise transfer and/or dispose of his rights and/or obligations under the Contract unless prior written consent of the Company is obtained.
- 13.17 Subject to clause 13.16, no terms of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not party to it.
- 13.18 The Company reserves the right to amend the Contract on not less than 14 days' written notice to the Customer.
- 13.19 For the avoidance of doubt on termination of the Contract, howsoever caused, the Company's rights contained in clauses 6, 9.1, 9.3, 10, 11, 13 (and not to the exclusion of the remainder of the Conditions) shall remain in full force and effect.

4 November 2020